



Electronic Information Systems, Inc.

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Secretary
Federal Communications Commission
1919 M. St. N.W.
Washington, D.C. 20554

Federal Communications Commission
Office of the Secretary

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Re: The Notice of Proposed Rulemakings in the matter of The Telephone
Consumer Protection Act of 1991. Docket No. 92-90

Dear Secretary:

Electronic Information Systems, Inc., (EIS) is a leading supplier of interactive voice and data systems for sales and service industries. Our principal products are predictive dialing systems that improve the productivity of business to consumer calling with live solicitors. Our expertise in the technology of predictive dialers provides an insight on how it can be effectively employed to meet the requirements of the Telephone Consumer Protection Act.

We applaud your efforts to balance legitimate privacy concerns with the continued viability of beneficial and useful business services. We also understand the need to achieve the goals of the TCPA at minimal costs to the taxpayers and at no cost to residential telephone subscribers.

We wish to comment on two sections of the TCPA and the associated rules for implementing it. One involves restrictions on the use of "autodialers," as defined by the Act and the related references in the rules; the other is the alternative mechanisms for addressing the privacy rights of consumers as they relate to direct marketing via telephone.

Use of Autodialers

The definition of an "autodialer," as stated by the U.S.C. section 227, is ambiguous.

EIS, and the industry at large, refer to "autodialers" as systems which automate the dialing process using a random or sequential number generator to call telephone numbers and play a computerized or prerecorded message; an example of this system is an ADRMP.

An ADRMP system automatically dials telephone numbers, either random or sequential, and plays a computerized or prerecorded message. These ADRMP calls do not facilitate communication between two people.

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These ADRMP systems also tied up phone lines until the message was done playing, endangering the safety and rights of telephone subscribers. This problem was addressed by the Government, which now requires the phone lines to be released after 5 seconds.

On the other hand, predictive dialing is advanced technology which automates the dialing process for live telemarketing agents. The system dials the appropriate amount of phone numbers from a database of customers or prospects for the number of agents available. When a response ["hello"] is detected, the system will immediately connect the call to a live agent. Therefore, there is no perceptual difference between predictive dialing and manual dialing. The fact that the process is automated is irrelevant from the standpoint of the telephone consumer.

The FCC proposed rulings regarding the definition of autodialers should clearly distinguish between autodialers (ADRMP's) and those systems which facilitate the communication between live agents and telephone consumers. In some instances, the proposed rulings clearly define a difference between autodialed and live calls.

For example, section F, paragraph 23, of the proposed rulings states the Commission seeks comment on whether it is in the public interest to recognize the inherent difference in the nuisance factor of autodialer calls as opposed to live solicitations.

Also, section C, paragraph 15, states that in debt collections, predictive dialers are autodialed calls which immediately deliver answered calls to a live collection representative.

The Commission also perceives a difference between autodialer calls and predictive dialer calls in categorizing telemarketing complaints. The recorded complaints clearly state whether complaints are generated by an autodialer, either in content of the prerecorded message or line seizure, or else, complaints generated by a live solicitor.

Only 9% of all the telemarketing complaints received by the Commission involved live operators. Therefore, the Commission does not need to restrict predictive dialers any more than manually-dialed calls.

It is clear that there are several distinguishing factors between autodialers and predictive dialers. The laws regulating autodialers should reflect the different automated dialing systems, and the FCC needs to clarify the definition and use consistent industry terminology.

Privacy Rights

EIS would also like to address the privacy rights of telephone consumers. The industry, along with the Federal Government, recognizes a need to protect the privacy rights of subscribers who wish not to be contacted by telephone solicitations.

Of the choices offered in section F, paragraph 27, EIS recommends the company specific database as the most practical option of the five potential mechanisms offered by the FCC proposed rulings.

In selecting the company specific database, telephone subscriber privacy rights are protected without putting a burden on the economy. This option allows for an important distinction; telephone subscribers are provided with the flexibility to selectively choose the do-not-call lists on which they wish to be included.

With a company specific system, no special technologies need to be created and no governmental administrative body needs to be established.

Existing database management systems, including those provided with predictive dialing systems, can perform automated purges of calling lists to remove the names of persons who have requested that they not be called. This means that the additional cost to the telemarketing company to achieve compliance with the regulation will be minimal.

This option also allows the telephone consumer to easily make a request not to be called without requiring them to be involved in other procedures.

Under this provision, telemarketing companies would be required to keep accurate records and produce evidence of compliance in the case of a complaint, thereby creating a simple way to identify un reputable firms.

We also recognize an industry wide privacy rights plan like the Telephone Preference Service of the Direct Marketing Association which has systems and procedures in place and seems to be working successfully.

EIS understands the need for governmental regulation and appreciates regulations which help maintain a reputable industry without burdening the consumers or legitimate telemarketing centers.

We appreciate the opportunity to assist in the legislative process.

Sincerely,



Jodi Meryl Wallace
Executive Director, Corporate Affairs